



OFFICE OF THE ELECTION OFFICER
% INTERNATIONAL BROTHERHOOD OF TEAMSTERS
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August 16, 1991

VIA UPS OVERNIGHT

Christopher Scott
c/o IBT Unity Team
508 Third Street, S.E.
Washington, D.C. 20003

Barry Feinstein
President
IBT Local Union 237
216th W. 14th Street
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Gene Giacumbo
President
IBT Local Union 843
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Springfield, NJ 07081

Diana Kilmury
c/o Eddie Burke, Carey Campaign
26 Bradford Street
Main Front Door
Charleston, WV 25301

**Re: Election Office Case Nos. P-821-LU237-NYC
and P-835-LU237-NYC**

Gentlemen and Ms. Kilmury:

A protest was filed pursuant to the *Rules for the IBT International Union Delegate and Officer Election*, revised August 1, 1990 ("*Rules*") by Chris Scott as a Teamster member and as a representative of the R. V. Durham Unity Team. Mr. Scott protests that the May 1991 issue of Local 237's newspaper "News and Views" violated the *Rules*. Mr. Scott contends that the publication in the May issue of "News and Views" of an article reporting Barry Feinstein's announcement for International Vice President of the IBT constituted inappropriate Local Union support of his candidacy.

Subsequently, additional protests were filed by Mr. Scott and on behalf of Gene Giacumbo and Diana Kilmury, nominated candidates affiliated with the General President candidacy of Ron Carey for the positions of International Union Vice President for the Eastern Conference and International Union Vice President At-Large, respectively. These later protests contend that the July 1991 issue of Local 237's newspaper also violated the *Rules*. Both Messrs. Scott and Giacumbo and Ms. Kilmury contend that the July issue provides inappropriate support to Mr. Feinstein's candidacy for International Union Vice President At-Large. Mr. Giacumbo and Ms. Kilmury also contend that the July issue wrongfully fails to cover the activities at the 1991 IBT International Union Convention of General President candidate Carey or to report on positions taken by him

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and his supporters during the Convention proceedings. Mr. Giacumbo and Ms. Kilmury further allege that the pictures in the July issue of "News and Views" provide campaign support for nominated General President candidate Walter Shea and the other candidates with whom he is slated, which include Mr. Feinstein.

The May issue of Local 237's newspaper contained an article reporting on the announcement by Barry Feinstein, Local Union 237's President, of his candidacy for nomination for the position of International Union Vice President At-Large. The article was accompanied by a photograph of Mr. Feinstein. The article, published on page 2 of the newspaper was prominently announced by a banner headline on page 1. The newspaper contained no coverage of the announcements or candidacies of any other IBT members seeking any International Union Officer position. The Election Officer's investigation determined that earlier issues of "News and Views" also did not contain any coverage of the announcement or candidacies for International office of any other members of the IBT.

The July issue of "News and Views" includes, on the first page, an article about the 1991 IBT International Union Convention. The article's headline is "Delegates Select Candidates, Feinstein Wins V.P. Nomination." While the article notes the names of all three IBT members who are nominated for the position of General President of the IBT, the only other nominated candidate seeking election in the December 1991 IBT International Union officer election whose name is mentioned in the article is Mr. Feinstein. The article notes that Mr. Feinstein was nominated for the position of International Union Vice President At-Large and is a candidate aligned with General President candidate Walter Shea. The article further reports favorably on Mr. Feinstein's activities at the 1991 IBT International Union Convention and is accompanied by a picture of him.

In addition to Mr. Feinstein's picture, the article in the July issue of "News and Views" is accompanied by three other photographs. Two of the photographs contain campaign signs. While signs for the Shea-Liguorotis team of candidates predominate, the signs of other candidates are also included in at least one of these two pictures. Additionally, the article notes positions taken by the supporters of Mr. Shea and nominated General President candidate R. V. Durham on an issue which came before the Convention without mentioning the position taken by Mr. Carey and his supporters with respect to that issue. The references in question in the article are, however, fleeting.

In his investigation of this protest, and his review of all issues of "News and Views" published during the past year as part of that investigation, the Election Officer also noted that the June 1991 issue of "News and Views" contains material relating to Mr. Feinstein's candidacy for International Union Vice President At-Large. Again, no other candidates for this International Union officer position are mentioned.

The *Rules* in Article VIII, § 7(a) prohibit utilization of a Union financed publication, such as Local 237's "News and Views," to support or attack the candidacy of any candidate for office. As noted in the *Rules* and as further explained in the Election Officer's Advisory on Union Publications, issued on December 21, 1990, the publication of pictures or articles reporting on the activities of a particular candidate where the same or similar activities of other candidates for the same office have not been similarly reported constitutes inappropriate support.

In the instant case, the May, June and July issues of Local 237's "News and Views" reported on Barry Feinstein's announcement of his candidacy, his candidacy and his nomination for IBT International Union Vice President At-Large. The articles were accompanied by pictures of him and contained further comments favorable to him and his candidacy. In none of these issues of "News and Views" nor in any preceding issues had Local 237's publication reported on any International officer candidate announcement or similar campaign activities of any other IBT member who was seeking nomination for International Union officer. Other than the nominations for IBT General President, "News and Views" reported only Mr. Feinstein's nomination for the position of IBT International Union Vice President At-Large. The newspaper did not even mention the names of any other candidates nominated for that position.

Barry Feinstein is the President of Local 237 and has held that position for 24 years. The Election Officer is cognizant that Local events - and thus candidacies of Local Union officers and members - are understandably given more prominence in Local Union publications than events which do not concern or involve the Local Union, its officers or members. However, the almost complete dearth of any articles covering the candidacies of any other candidate for International Office in Local 237's "News and Views" coupled with the prominence given to Mr. Feinstein's announcement of his candidacy in the May issue of the newspaper and the coverage of his candidacy and nomination in the June and July issues of the publication, including the headline announcing his nomination in the July issue, goes beyond the normal bounds of emphasizing Local news and thus constitutes a violation of the *Rules*.

On the other hand, the Election Officer does not find that the fleeting references in the July 1991 article in "News and Views" to the positions taken by the supporters of the candidacies of R.V. Durham and Walter Shea for General President of the IBT without stating the position taken by supporters of Mr. Carey on the same issue constitutes a violation of the *Rules*. As noted above, the reference was only fleeting. The article in question further noted that Mr. Carey had been nominated for the position of General President of the IBT and contained no references denigrating his candidacy or disparaging his campaign. Whatever unfair advantage which may have been granted to Mr. Shea and the candidates aligned with him by the predominance of his campaign signs in the pictures accompanying the July 1991 article will be remedied by the order imposed by the Election Officer for the violation he has found to have occurred.

The violation found by the Election Officer to have occurred here was the publication of pictures and articles reporting on the campaign activities of Barry Feinstein in three separate issues of "News and Views" where the same or similar activities of other candidates for the same office, the office of International Union Vice President At-Large, were not similarly reported. Thus the remedy for the violation is limited to other nominated candidates for the office of International Union Vice President At-Large.

Such other candidates shall be entitled, as a remedy for the violation found here, to have published in the October, 1991 issue of "News and Views" an article relating to the each of their candidacies. Each nominated candidate for International Union Vice President At-Large shall be limited to one-fifth of a page. Nominated candidates, if members of a slate, may pool their space. The candidates shall submit their material to the editor of Local 237 "News and Views" in camera-ready form. The material submitted by the candidates, whether the candidates are members of a slate and whether, if on a slate, the candidates pool their space, may include material about the candidacies and campaigns of other candidates with which any of the the individual International Union At-Large Vice President candidate is aligned. Each candidate or slate of candidates may include one picture in the material to be printed; the inclusion of a picture in the campaign material shall not increase the amount of space to which each nominated candidate or slate of candidates for International Union Vice President At-Large is entitled in the October issue of the newspaper.

Within 10 days of the date of this decision Barry Feinstein as President of Local Union 237 or the editor of Local 237's "News and Views" shall notify each nominated candidate for the position of International Union Vice President At-Large of the date by which each such candidate's or slate's camera-ready material is to be submitted to Local 237 for inclusion in the October issue of Local 237's "News and Views." A copy of such notice shall be sent simultaneously to the Election Officer accompanied by an affidavit demonstrating that notice to all nominated candidates for the position of International Union Vice President At-Large has been given. Prior to the publication of the October issue of "News and Views," Mr. Feinstein as President of Local 237 or the editor of Local 237's "News and Views" shall submit to the Election Officer a proof of the entire October issue of "News and Views," which proof shall include all campaign materials and pictures submitted by the candidates for the position of International Union Vice President At-Large or by their slates.

If any interested party is not satisfied with this determination, they may request a hearing before the Independent Administrator within twenty-four (24) hours of their receipt of this letter. The parties are reminded that, absent extraordinary circumstances, no party may rely upon evidence that was not presented to the Office of the Election Officer in any such appeal. Requests for a hearing shall be made in writing, and shall be served on Independent Administrator Frederick B. Lacey at LeBoeuf, Lamb, Leiby & MacRae, One Gateway Center, Newark, New Jersey 07102-5311, Facsimile (201) 622-6693. Copies of the request for hearing must be served on the parties listed above, as well as upon the Election Officer, IBT, 25 Louisiana Avenue, N.W., Washington,

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D.C. 20001, Facsimile (202) 624-8792. A copy of the protest must accompany the request for a hearing.

Very truly yours,

Michael H. Holland

MHH/mjv

cc: Frederick B. Lacey, Independent Administrator

Amy Gladstein, Regional Coordinator

All Nominated Candidates for Vice President At-Large

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